

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

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Second Regular Session  
2010

CHAPTER 248

## **SENATE BILL 1315**

AN ACT

AMENDING SECTIONS 36-882 AND 36-897.01, ARIZONA REVISED STATUTES; RELATING TO  
CHILD CARE PROGRAMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-882, Arizona Revised Statutes, is amended to  
3 read:

4 36-882. License; posting; transfer prohibited; fees;  
5 provisional license; renewal

6 A. A child care facility shall not receive any child for care,  
7 supervision or training unless the facility is licensed by the department of  
8 health services.

9 B. An application for a license shall be made on a written or  
10 electronic form prescribed by the department and shall include:

11 1. Information required by the department for the proper  
12 administration of this chapter and rules adopted pursuant to this chapter.

13 2. The name and business or residential address of each controlling  
14 person.

15 3. An affirmation by the applicant that no controlling person has been  
16 denied a certificate to operate a child care group home or a license to  
17 operate a child care facility for the care of children in this state or  
18 another state or has had a license to operate a child care facility or a  
19 certificate to operate a child care group home revoked for reasons that  
20 relate to the endangerment of the health and safety of children.

21 C. An application for an initial license shall include:

22 1. The form that is required pursuant to section 36-883.02, subsection  
23 C and that is completed by the applicant.

24 2. A copy of a valid fingerprint clearance card issued to the  
25 applicant pursuant to section 41-1758.07.

26 3. If the applicant's facility is located within one-fourth mile of  
27 any agricultural land, the names and addresses of the owners and lessees of  
28 the agricultural land and a copy of the agreement required pursuant to  
29 subsection D of this section.

30 D. The department shall deny any license that affects agricultural  
31 land regulated pursuant to section 3-365, except that the owner of the  
32 agricultural land may agree to comply with the buffer zone requirements of  
33 section 3-365. If the owner agrees in writing to comply with the buffer zone  
34 requirements and records the agreement in the office of the county recorder  
35 as a restrictive covenant running with the title to the land, the department  
36 may license the child care facility to be located within the affected buffer  
37 zone. The agreement may include any stipulations regarding the child care  
38 facility, including conditions for future expansion of the facility and  
39 changes in the operational status of the facility that will result in a  
40 breach of the agreement. This subsection shall not apply to the issuance or  
41 renewal of a license for a child care facility located in the same location  
42 for which a child care facility license was previously issued.

43 E. On receipt of an application for an initial license, the department  
44 shall inspect the applicant's physical space, activities and standards of

1 care. If the department determines that the applicant and the applicant's  
2 facility are in substantial compliance with this chapter and rules adopted  
3 pursuant to this chapter and the applicant agrees to carry out a plan  
4 acceptable to the department to eliminate any deficiencies, the department  
5 shall issue an initial license to the applicant.

6 F. BEGINNING JANUARY 1, 2010, SUBJECT TO THE AVAILABILITY OF MONIES,  
7 THE DEPARTMENT MAY ESTABLISH A DISCOUNT PROGRAM FOR LICENSING FEES PAID BY  
8 CHILD CARE FACILITIES, INCLUDING A PUBLIC HEALTH DISCOUNT.

9 ~~F.~~ G. The director, by rule, may establish and collect ~~nonrefundable~~  
10 fees for child care facilities ~~for initial and renewal license applications~~  
11 and A FEE for late filing of applications. Beginning January 1, 2010, ninety  
12 per cent of the fees collected pursuant to this section shall be deposited,  
13 pursuant to sections 35-146 and 35-147, in the health services licensing fund  
14 established by section 36-414 and ten per cent of the fees collected pursuant  
15 to this section shall be deposited, pursuant to sections 35-146 and 35-147,  
16 in the state general fund.

17 H. PURSUANT TO AVAILABLE FUNDING, THE DEPARTMENT SHALL COLLECT ANNUAL  
18 FEES.

19 ~~G.~~ I. A license is valid ~~for three years~~ from the date of issuance  
20 UNLESS IT IS SUBSEQUENTLY REVOKED OR SUSPENDED OR THE LICENSEE DOES NOT PAY  
21 THE LICENSURE FEE and shall specify the following:

- 22 1. The name of the applicant.
- 23 2. The exact address where the applicant will locate the facility.
- 24 3. The maximum number and age limitations of children that shall be  
25 cared for at any one time.
- 26 4. The classification of services that the facility is licensed to  
27 provide.

28 ~~H.~~ J. The department may issue a provisional license, not to exceed  
29 six months, to an applicant or a licensed child care facility if:

- 30 1. The facility changes director.
- 31 2. The department determines that an applicant for an initial license  
32 or a licensed child care facility is not in substantial compliance with this  
33 chapter and rules adopted pursuant to this chapter and the immediate  
34 interests of children, families and the general public are best served if the  
35 child care facility or the applicant is given an opportunity to correct  
36 deficiencies.

37 ~~I.~~ K. A provisional license shall state the reason for the  
38 provisional status.

39 ~~J.~~ L. On the expiration of a provisional license, the department  
40 shall issue a regular license ~~for the remainder of the license period~~ if the  
41 department determines that the licensee and the child care facility are in  
42 substantial compliance with this chapter and rules adopted pursuant to this  
43 chapter and the applicant agrees to carry out a plan acceptable to the  
44 department to eliminate any deficiencies.

1       ~~K. Except as provided in section 36-893, subsection A, on receipt of a~~  
2 ~~renewal application that complies with this chapter and rules adopted~~  
3 ~~pursuant to this chapter, the department shall issue a renewal license to the~~  
4 ~~child care facility.~~

5       ~~L.~~ M. The licensee shall notify the department in writing within ten  
6 days of any change in the child care facility's director.

7       ~~M.~~ N. The license is not transferable from person to person and is  
8 valid only for the quarters occupied at the time of issuance.

9       ~~N.~~ O. The license shall be conspicuously posted in the child care  
10 facility.

11       ~~O.~~ P. The licensee shall conspicuously post a schedule of fees  
12 charged for services and the established policy for a refund of fees for  
13 services not rendered.

14       ~~P.~~ Q. The licensee shall keep current department inspection reports  
15 at the child care facility and shall make them available to parents on  
16 request. The licensee shall conspicuously post a notice that identifies the  
17 location where these inspection reports are available for review.

18       ~~Q.~~ R. The department of health services shall notify the department  
19 of public safety if the department of health services receives credible  
20 evidence that a licensee who possesses a valid fingerprint clearance card  
21 either:

22       1. Is arrested for or charged with an offense listed in section  
23 41-1758.07, subsection B.

24       2. Falsified information on any form required by section 36-883.02.

25       S. LICENSEES MAY PAY LICENSURE FEES BY INSTALLMENT PAYMENTS BASED ON  
26 PROCEDURES ESTABLISHED BY THE DEPARTMENT.

27       T. THE DEPARTMENT SHALL REVIEW ITS ACTUAL COSTS TO ADMINISTER THIS  
28 ARTICLE AT LEAST ONCE EVERY TWO YEARS. IF THE DEPARTMENT DETERMINES THAT ITS  
29 ADMINISTRATIVE COSTS ARE LOWER THAN THE FEES IT HAS COLLECTED PURSUANT TO  
30 THIS SECTION, IT SHALL ADJUST FEES.

31       U. IF THE DEPARTMENT LOWERS FEES, THE DEPARTMENT MAY REFUND OR CREDIT  
32 FEES TO LICENSEES.

33       V. FEE REDUCTIONS ARE EXEMPT FROM THE RULE MAKING REQUIREMENTS OF  
34 TITLE 41, CHAPTER 6.

35       Sec. 2. Section 36-897.01, Arizona Revised Statutes, is amended to  
36 read:

37       36-897.01. Certification; application; fees; rules;  
38                   fingerprinting; renewal

39       A. A child care group home shall be certified by the department. An  
40 application for a certificate shall be made on a written or electronic form  
41 prescribed by the department and shall contain all information required by  
42 the department.

43       B. If a child care group home is within one-fourth mile of agriculture  
44 land, the application shall include the names and addresses of the owners and

1 lessees of any agricultural land within one-fourth mile of the facility.  
 2 Within ten days after receipt of an application for a certificate, the  
 3 department shall notify the owners and lessees of agricultural land as listed  
 4 on the application. The department shall deny a certificate that affects  
 5 agricultural land regulated pursuant to section 3-365, except that the owner  
 6 of the agricultural land may agree to comply with the buffer zone  
 7 requirements of section 3-365. If the owner agrees in writing to comply with  
 8 the buffer zone requirements and records the agreement in the office of the  
 9 county recorder as a restrictive covenant running with the title to the land,  
 10 the department may issue a certificate to the child care group home to be  
 11 located within the affected buffer zone. The agreement may include any  
 12 stipulations regarding the child care group home, including conditions for  
 13 future expansion of the facility and changes in the operational status of the  
 14 facility that will result in a breach of the agreement. This subsection  
 15 applies to the renewal of a certificate for a child care group home located  
 16 in the same location if the child care group home certificate was not  
 17 previously issued under this subsection.

18 C. The director, by rule, may establish and collect ~~nonrefundable~~ fees  
 19 for child care group homes ~~for initial and renewal certificate applications~~  
 20 and ~~for~~ A late filing ~~fees~~ FEE. Beginning January 1, 2010, ninety per cent  
 21 of the fees collected pursuant to this section shall be deposited, pursuant  
 22 to sections 35-146 and 35-147, in the health services licensing fund  
 23 established by section 36-414 and ten per cent of the fees collected pursuant  
 24 to this section shall be deposited, pursuant to sections 35-146 and 35-147,  
 25 in the state general fund.

26 D. PURSUANT TO AVAILABLE FUNDING THE DEPARTMENT SHALL COLLECT ANNUAL  
 27 FEES.

28 E. BEGINNING JANUARY 1, 2010, SUBJECT TO THE AVAILABILITY OF MONIES,  
 29 THE DEPARTMENT MAY ESTABLISH A DISCOUNT PROGRAM FOR CERTIFICATION FEES PAID  
 30 BY CHILD CARE GROUP HOMES, INCLUDING A PUBLIC HEALTH DISCOUNT PROGRAM.

31 ~~D.~~ F. The department shall issue an initial certificate if the  
 32 department determines that the applicant and the applicant's child care group  
 33 home are in substantial compliance with the requirements of this article and  
 34 department rules and the facility agrees to carry out a plan acceptable to  
 35 the director to eliminate any deficiencies.

36 ~~E.~~ G. A certificate is valid ~~for three years~~ UNLESS IT IS REVOKED OR  
 37 SUSPENDED OR THE LICENSEE DOES NOT PAY THE LICENSURE FEE and may be renewed  
 38 ~~for successive three-year periods by submitting a renewal application~~ THE  
 39 CERTIFICATION FEE as prescribed by the department ~~and submitting a~~  
 40 ~~nonrefundable renewal application fee established pursuant to subsection C of~~  
 41 this section. ~~An applicant for renewal who fails to submit the application~~  
 42 ~~forty-five days before the expiration of the certificate is subject to a late~~  
 43 ~~filing fee established pursuant to subsection C of this section.~~

1 F. H. In order to ensure that the equipment and services of a child  
2 care group home and the good character of an applicant are conducive to the  
3 welfare of children, the department by rule shall establish the criteria for  
4 granting, denying, suspending and revoking a certificate.

5 G. I. The director shall adopt rules and prescribe forms as may be  
6 necessary for the proper administration and enforcement of this article.

7 H. J. The certificate shall be conspicuously posted in the child care  
8 group home for viewing by parents and the public.

9 I. K. Current department inspection reports shall be kept at the  
10 child care group home and shall be made available to parents on request.

11 J. L. A certificate is not transferable and is valid only for the  
12 location occupied at the time it is issued.

13 K. M. An application for an initial certificate shall include:

14 1. The form that is required pursuant to section 36-897.03, subsection  
15 B and that is completed by the applicant.

16 2. A copy of a valid fingerprint clearance card issued to the  
17 applicant pursuant to section 41-1758.07.

18 ~~L. Except as provided in section 36-897.10, subsection A, on receipt~~  
19 ~~of a renewal application that complies with this chapter and rules adopted~~  
20 ~~pursuant to this chapter, the department shall issue a renewal certificate to~~  
21 ~~the child care group home.~~

22 M. N. The department of health services shall notify the department  
23 of public safety if the department of health services receives credible  
24 evidence that a person who possesses a valid fingerprint clearance card  
25 either:

26 1. Is arrested for or charged with an offense listed in section  
27 41-1758.07, subsection B.

28 2. Falsified information on any form required by section 36-897.03.

29 O. CERTIFICATE HOLDERS MAY PAY FEES BY INSTALLMENT PAYMENTS BASED ON  
30 PROCEDURES ESTABLISHED BY THE DEPARTMENT.

31 P. THE DEPARTMENT SHALL REVIEW ITS ACTUAL COSTS TO ADMINISTER THIS  
32 ARTICLE AT LEAST ONCE EVERY TWO YEARS. IF THE DEPARTMENT DETERMINES THAT ITS  
33 ADMINISTRATIVE COSTS ARE LOWER THAN THE FEES IT HAS COLLECTED PURSUANT TO  
34 THIS SECTION, IT SHALL ADJUST FEES.

35 Q. IF THE DEPARTMENT LOWERS FEES, THE DEPARTMENT MAY REFUND OR CREDIT  
36 FEES TO LICENSEES.

37 R. FEE REDUCTIONS ARE EXEMPT FROM THE RULE MAKING REQUIREMENTS OF  
38 TITLE 41, CHAPTER 6.

39 Sec. 3. Child care programs; study; report

40 A. The department of health services shall conduct a study of its  
41 specific costs to administer title 36, chapter 7.1, Arizona Revised Statutes.  
42 The study shall identify costs specific to the following areas relating to  
43 child care facilities and child care group homes:

44 1. The licensure and certification process.

1           2. Inspections.

2           3. Complaints.

3           4. Enforcement.

4           5. Training.

5           6. Technical assistance.

6           7. Consumer assistance.

7           B. The study shall analyze how these costs are related to the type and  
8 size of facilities and shall identify any other related costs that are  
9 included in licensure and certification fees.

10          C. In conducting its study, the department shall consult with  
11 representatives of facilities that are licensed and certified pursuant to  
12 title 36, chapter 7.1, Arizona Revised Statutes.

13          D. The study shall assess the efficiency of the department's  
14 regulation of child care facilities and child care group homes and develop  
15 recommendations to improve the efficiency and cost-effectiveness of its  
16 regulation without jeopardizing the health and safety of children.

17          E. The study shall identify issues, options, and recommendations for a  
18 permanent transition from three year to annual fees.

19          F. The department shall submit a written report of the study's  
20 findings and recommendations to the governor, the speaker of the house of  
21 representatives and the president of the senate on or before February 1,  
22 2011. The department shall provide a copy of its report to the secretary of  
23 state.

24          G. On or before October 1, 2010, the department shall adopt rules to  
25 streamline its regulation of facilities pursuant to section 36-883, Arizona  
26 Revised Statutes.

27          H. On or before October 1, 2011, the department shall adopt rules for  
28 group homes based on minimum standards pursuant to section 36-897.02, Arizona  
29 Revised Statutes.

30          I. The department shall adjust fees based on the findings of its study  
31 and the rules adopted pursuant to subsection F of this section.

32          Sec. 4. Payment of annual fees

33          A. When the department transitions from three year fees to annual  
34 fees, a licensed child care facility that paid three year fees for a license  
35 that became effective on or after January 1, 2010, is not required to pay  
36 annual fees for three years after that payment.

37          B. A licensed child care facility that paid three year fees for a  
38 license that became effective before January 1, 2010, shall pay annual fees  
39 when established by the department pursuant to the requirements of section  
40 36-882, Arizona Revised Statutes, as amended by this act.

41          C. When the department transitions from three year fees to annual  
42 fees, a certified child care group home that paid three year fees for a  
43 license that became effective on or after January 1, 2010 is not required to  
44 pay annual fees for three years after that payment.

1           D. A certified child care group home that paid three year fees for a  
2 certificate that became effective before January 1, 2010, shall pay annual  
3 fees when established by the department pursuant to the requirements of  
4 section 36-897.01, Arizona Revised Statutes, as amended by this act.

5           Sec. 5. Exemption from rule making

6           For the purposes of this act, the department of health services is  
7 exempt from the rule making requirements of title 41, chapter 6, Arizona  
8 Revised Statutes, for one year after the effective date of this act.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.